



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,285	11/18/2003	Mark Robert Kohls	132820IT/YOD GEMS:0231	6082
7590 03/17/2005				
Patrick S. Yoder FLETCHER YODER P.O. Box 692289 Houston, TX 77269-2289		EXAMINER NGHIEM, MICHAEL P		
		ART UNIT 2863		PAPER NUMBER

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4A

Office Action Summary	Application No. 10/716,285	Applicant(s) KOHLS, MARK ROBERT	
	Examiner Michael P. Nghiem	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendment filed on December 27, 2004 has been acknowledged.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-22, 27, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohls (DE 101 50 364).

Regarding claims 1, 9, 13, and 19, Kohls discloses a physiological monitoring system and method (Fig. 1), comprising:

- a data acquisition component (12) configured to acquire a set of physiological data (Fig. 1);

- a data processing component (25) configured to generate a set of high-resolution symbols from the set of physiological data (25 converts the physiology data to video-like form, Fig. 1); and

- a printing component (paragraph 0024, line 8) configured to print at least the plurality of high resolution symbols onto a suitable medium (paragraph 0024).

Regarding claims 2, 10, 14, 18, and 20, Kohls discloses that the set of physiological data comprises a set of ECG data (paragraph 0015, lines 1-3)

Regarding claims 3, 11, 16, and 22, Kohls discloses that the printing component is configured to print the plurality of high-resolution symbols with a printout of the set of physiological data (paragraph 0024, lines 6-9).

Regarding claim 4, Kohls discloses two or more sensor leads (14) connected to the data acquisition component via respective lead wires (13).

Regarding claims 5 and 29, Kohls discloses a storage component (46) configured to receive at least one of the set of physiological data and the plurality of high-resolution symbols (Fig. 1).

Regarding claims 17 and 27, Kohls discloses:

- a routine for acquiring a set of physiological data representative of one or more physiological parameters of interest (in 12);
- a routine for generating a set of high-resolution symbols from the set of physiological data (in 25);

- a routine for printing the high-resolution symbols (paragraph 0024).

Regarding claim 21, Kohls discloses storing the set of physiological data on a computer-accessible medium (46).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-8, 19, 23-26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Freeman (US 20030144699).

Regarding claim 1, Freeman discloses a physiological monitoring system (Fig. 1), comprising:

- a data acquisition component (102, 104) configured to acquire a set of physiological data (Fig. 1);

- a data processing component (134, 106, 108) configured to generate a set of high-resolution symbols from the set of physiological data (paragraph 0032, lines 9-13);

- a printing component (120) configured to print at least the plurality of high resolution symbols onto a suitable medium (paragraph 0024).

Regarding claim 6, Freeman discloses a scanning component (optical scanner, paragraph 0076, line 13) configured to read the plurality of high-resolution symbols from the solid medium (paragraph 0076, lines 10-16).

Regarding claims 7, 23 and 28, Freeman discloses a computer program (Fig. 1), provided on one or more computer readable media, for acquiring a set of physiological data (paragraph 0027), comprising:

- a routine for acquiring a set of high-resolution symbols from a printed medium (paragraph 0076, lines 10-14);

- a routine for converting the set of high-resolution symbols to a set of physiological data representative of one or more physiological parameters of interest (paragraph 0076, lines 14-16, paragraphs 0027, 0032).

Regarding claim 24, Freeman discloses that the set of physiological data comprises one or more digital ECG waveforms (paragraph 0032, lines 1-3).

Regarding claim 25, Freeman discloses a routine for storing the set of physiological data on a computer-accessible medium (paragraph 0032, Fig. 1).

Regarding claims 8 and 26, Freeman discloses a routine for printing at least a portion of the set of physiological data (via 120).

Response to Arguments

3. Applicant's arguments filed on December 27, 2004 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections, Applicants argue that the Examiner must provide a translation of the Kohls reference if it is relied upon as support for a rejection of the instant claims.

Examiner's now submits a copy of the translation of the Kohls reference.

Applicants further argue regarding claims 1, 19, 27, and 29 that the Kohls reference does not disclose high-resolution symbols.

Examiner's position is that Kohls discloses converting the physiological data to video-like form (Translation, paragraph 0022, lines 6-7). The video-like form of the physiological data is deemed to be high-resolution symbols "which are used to convey

Art Unit: 2863

digital, i.e., binary, information" (binary data from memory, Translation, paragraph 0022, lines 5-6).

Applicants further argue that on page 6 of the instant application, "it is explained that the high-resolution symbols are characters which can be distinguished at high density and/or high-resolution and which are used to convey digital, i.e., binary, information".

Examiner's position is that page 6 of the instant application merely provides examples of the high-resolution symbols, but does not define it.

Applicants further argue that Kohls does not disclose "a printing component configured to print at least the plurality of high-resolution symbols ...". As such high-resolution symbols are entirely absent from the Kohls reference, a printing component configured to print such high-resolution symbols is also absent.

Examiner's position is that Kohls discloses a "workstation (40) ... draws the video screen (or a printed page)" (Translation, paragraph 0024, lines 3 —4). Unless Applicants further define "high-resolution" (e.g. 600 dpi), the printed page disclosed by Kohls is deemed to contain high-resolution printed symbols. Further, the printed page of Kohls is deemed to be printed by a printing component.

Applicants further argue that Kohls does not disclose a data processing component for generating such symbols.

Examiner's position is that Kohls discloses a data processing component (25) for generating such symbols (25 converts the physiology data to video-like form, Fig. 1).

Applicants further argue regarding claim 19 that Kohls does not disclose "acquiring a set of high-resolution symbols from a printed medium" or of "converting the set of high-resolution symbols to a set of physiological data".

Examiner's position is that Kohls "acquiring a set of high-resolution symbols from a printed medium" (by obtaining the "printed page", Translation, paragraph 0024, line 4, one acquires the set of high-resolution printed symbols or printed material). Further, Kohls discloses "converting the set of high-resolution symbols to a set of physiological data" (the printed page of Kohls contains data representing the physiological data).

Applicants further argue regarding claim 29 that Kohls does not disclose a suitable medium. The storage component (46) of Kohls is not a suitable medium for a printout.

Examiner's position is that the storage (46) of Kohls is a suitable medium for the printout in the sense that it stores data to be printed out or displayed (Translation, paragraph 0024, lines 3-4, Fig. 1).

Applicants further argue regarding claim 1 that Freeman does not disclose high-resolution symbols.

Examiner's position is that Freeman discloses a printing component (printer 120, paragraph 0024, lines 3-5) which is deemed to print out high resolution symbols.

Applicants further argue regarding claim 23 that Freeman is silent as to a routine for acquiring a set of high-resolution symbols.

Examiner's position is that Freeman discloses that "the computer medium could even be paper or another suitable medium upon which the program is printed" (paragraph 0024, lines 10-12). Thus, Freeman discloses a routine (printing program of printer, paragraph 0076, line 12) for acquiring a set of high-resolution symbols (for printing, paragraph 0076, lines 11-12).

Applicants further argue that Freeman does not disclose a routine for converting a set of high-resolution symbols to a set of physiology data.

Examiner's position is that Freeman discloses gathering physiology data via sensors (paragraph 0027, lines 1-3) and outputting them via I/O device (120) (paragraph 0032,

lines 1-9). The I/O devices may be printers (paragraph 0024, lines 3-5). Thus, the printers print out high-resolution symbols representing physiology data.

Applicants further argue that there is no 35 USC 102 rejection found for claim 28.

Examiner's position is that there is a typographical error in the previous Office Action: "27" (page 5, line 13) should have been – 28 --. Please see the above discussion regarding claim 28.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

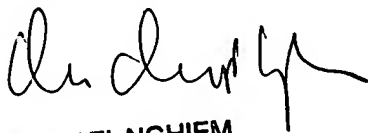
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P Nghiem whose telephone number is (571) 272-2277. The examiner can normally be reached on M-H.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL NGHIEM
PRIMARY EXAMINER**

Michael Nghiem

March 14, 2005